

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STATE FARM FIRE AND CASUALTY
COMPANY, a corporation,
Plaintiff,

NO. CV-11-3048-EFS

v.

**ORDER SEVERING CLAIMS AND
PARTIALLY REMANDING TO
STATE COURT**

CLE ELUM LOG AND TRANSFER
STRUCTURES LLC, et al., entity
unknown; OWEN B. WOODARD and
CHELSIE M. WOODARD, husband and
wife and their marital community;
JOHN DOE or JANE DOE EMPLOYEES 1-
10, and their marital
communities;

Defendants.

OWEN B. WOODARD and CHELSIE M.
WOODARD, husband and wife and
their marital community; and CLE
ELUM LOG AND TIMBER STRUCTURES,
LLC, a Washington limited
liability company;

Defendants/Third-Party
Plaintiffs,

v.

COUNTRY INSURANCE COMPANY, a
foreign insurance company; GRANT
LEARNED and "JANE DOE" LEARNED,
Washington State individuals and
any marital community; and
LEARNED FAMILY TRUST, LLC, a
Washington limited liability
company,

Third-Party Defendants.

Before the Court, without oral argument, is Third-Party Plaintiffs' Motion and Memorandum for Remand, ECF No. [8](#), filed May 20, 2011. Third-party Plaintiffs Owen and Chelsie Woodard and Cle Elum Log and Timber Structures, LLC, move the Court to remand this case to Kittitas County Superior Court for lack of diversity jurisdiction.¹ See 28 U.S.C. § 1441; *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

On June 10, 2011, the parties filed a Stipulation and Order of Severance and Removal/Remand, ECF No. [17](#). The parties agree that:

State Farm's complaint and the third-party complaint against Learned should be severed from the third-party complaint against Country Casualty pursuant to [Federal Rule of Civil Procedure 42]. State Farm's complaint and the third-party complaint against Learned should be remanded back to Superior Court of the State of Washington, Kittitas County, Case No. 10-2-00206-8. The third-party complaint against Country Casualty should remain in this court.

ECF No. [17](#). The Court finds remand is appropriate. Accordingly, **IT IS HEREBY ORDERED:**

1. Pursuant to Rule 42, State Farm's Complaint, ECF No. 1-[2](#), and the Third-Party Complaint against Learned, ECF No. [7](#), ¶¶ 3.21-3.24, are **SEVERED** from the Third-Party Complaint against Country Casualty, *id.* ¶¶

¹ Third-Party Plaintiffs argue that diversity jurisdiction is lacking because: 1) Third-Party Defendant Country Casualty Insurance Company ("Country Casualty") failed to establish the amount-in-controversy requirement, and 2) the addition of Third-Party Defendants Grant Learned, Jane Doe Learned, and Learned Family Trust, LLC ("Learned"), Washington citizens, destroys complete diversity. ECF No. [8](#), at 2.

3.1-3.20. See Fed. R. Civ. P. 42(b) ("For convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims.").

2. State Farm's Complaint, ECF No. 1-[2](#), and the Third-Party Complaint against Learned, ECF No. [7](#), ¶¶ 3.21-3.24, are **REMANDED** to the Superior Court of the State of Washington, Kittitas County, Case No. 10-2-00206-8.

3. The parties do not waive any substantive claims or defenses.

4. The Third-Party Complaint against Country Casualty, ECF No. [7](#), ¶¶ 3.1-3.20 remains before this Court.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order and provide copies to all counsel.

DATED this 21st day of June 2011.

S/ Edward F. Shea
EDWARD F. SHEA
United States District Judge

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